



FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

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OFFICE OF PETITIONS

In re Application of
Bradley Christenson et al
Application No. 10/040,070
Filed: October 23, 2001
Attorney Docket No. 19654-238898

DECISION MERGING FILES

~~In re Application of
Bradley Christenson et al
Application No. 10/044,025
Filed: January 11, 2002
Attorney Docket No. 19654-238898~~

This is in response to the "Request to Withdraw Duplicate Application Petition" filed by facsimile on January 31, 2002 in application No. 10/040,070, requesting that the "Duplicate New Application Petition" filed on January 11, 2002 be withdrawn. Before a decision was made on the "Duplicate New Application Petition", the accompanying duplicate application papers were assigned application No. 10/044,025 and a filing date of January 11, 2002. Accordingly, the January 31, 2002 "Request to Withdraw Duplicate Application Petition" is being treated as a petition requesting that the file of application No. 10/044,025 be merged into the file of application No. 10/040,070, and that any duplicate fees be refunded. The petition has recently been forwarded to this office for review. Any delay in considering the petition is regretted.

The petition is granted.

On October 23, 2001, the original application papers were filed which were later assigned application No. 10/040,070.

On January 11, 2002, before petitioners received a filing receipt or a postcard receipt for the original application papers, petitioners filed the "Duplicate New Application Petition" with duplicate application papers which were assigned application No. 10/044,025.

On January 18, 2002, petitioners finally received a postcard receipt for the original October 23, 2001 application filing. It is noted that Office records show that the fees provided with the original application filing were not processed by the Office until January 14, 2002.

On January 31, 2002, petitioners filed the present petition styled "Request to Withdraw Duplicate Application Petition".

The original application was filed when the Office was being affected by USPS mail delays. See Processing of, and Requirements for, the Filing of Duplicate Applications and Papers in Patent Applications in view of USPS Mail Delays; Notice, 1254 Off. Gaz. Pat. Office 92 (January 15, 2002). It is concluded that, in this particular case, the duplicate application filed on January 11, 2002, was filed as a result of USPS mail delays that affected the Office.

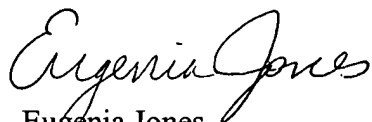
Based on the foregoing, it is appropriate to merge the files.

The file of application No. 10/044,025 will be merged into the file of application No. 10/040,070 with a filing date of October 23, 2001. All fees relating to application No. 10/044,025 are being credited to counsel's deposit account no. 06-0029.

The applications are being forwarded to Initial Patent Examination Division for merging the file of application No. 10/044,025 into the file of application No. 10/040,070. The merged application No. 10/040,070 will maintain the presently accorded filing date of October 23, 2001. Application No. 10/044,025 will no longer be an active application number.

Application No. 10/040,070 will then be forwarded to Technology Center Art Unit 1615 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.



Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE